

**RULES OF PROCEDURE  
DALLAS COUNTY BOARD OF ADJUSTMENT**

The following Rules of Procedure are hereby adopted by the Dallas County Board of Adjustment.

**ARTICLE I  
Officers**

**1.1 Chairperson and Vice-Chairperson.** At the first regular meeting each year, the board will elect officers (a chairperson and vice-chairperson) from its membership. All members are eligible for election or re-election. If the Board of Adjustment term of an elected officer ends in December, an election shall be held at the December meeting for an interim officer, who will serve until the first regular meeting of the year.

**1.2 Tenure.** The chairperson and vice-chairperson shall take office immediately following their selection and shall hold office for a term of one year or until their successors are selected and assume office.

**1.3 Duties.** The chairperson will preside at all meetings, appoint committees, and perform such other duties as may be ordered by the Board. The vice-chairperson shall act in the capacity of the chairperson in his or her absence and if the office of the chairperson becomes vacant, the vice chairperson shall succeed to this office for the unexpired term and the board shall select a successor to the office of vice chairperson for the unexpired term.

**1.4 Secretary.** The Director of Planning and Development shall be responsible for the duties of secretary of the Board. The secretary shall record and maintain minutes of the meetings, ensure that the minutes and adopted recommendations are properly published and recorded, and perform such other duties as the board may determine.

**ARTICLE II  
Meetings**

**2.1 Regular Meetings.** A regular meeting of the Board shall be at the call of the chairperson or secretary and at such time and place determined. The secretary shall give each member of the Board at least one week notice by mail and/or phone.

**2.2 Special meetings.** Special meetings may be called at the request of the chairperson, or any three (3) members of the Board. Notice of the special meeting shall be given by the secretary to the members of the Board at least 48 hours before such meeting and shall state the purpose and time of the meeting. In addition, the special meeting must meet the same public notice requirements of regular meetings.

**2.3 Public, Meetings and Records.** All regular and special meetings,

subcommittee meetings, hearings, records, and accounts shall be open to the public.

**2.4 Official Notice of Meeting.** Notice of the time and place of every regular or special Board meeting shall be published in an official newspaper not less than four nor more than twenty days before the date of the meeting. A copy of the notice shall be posted in a prominent place in the Dallas County Courthouse and in the office of the Department of Planning and Development.

**2.5 Quorum.** A majority (3) of the total number (5) of members shall constitute a quorum. Without a quorum, no business will be transacted and no official action on any matter will take place.

**2.6 Order of Business; Agenda.** The secretary shall prepare an agenda for each meeting and send it to each Board member at least seven (7) days before the meeting. The order of business shall be as follows:

- A. Call to order.
- B. Approval of agenda.
- C. Approval of minutes of previous meeting.
- D. Reports of officers, committees or staff.
- E. Unfinished business.
- F. New business: Appeals and applications on the agenda.
- G. Time open for citizens wishing to address the Board on matters not on the established agenda, any other discussion or announcements, and notice of next meeting.
- H. Adjournment.

**2.7 Call to Order.** The chairperson shall call the meeting to order at the appointed hour. In the absence of the chairperson, the vice-chairperson shall call the meeting to order and shall serve as the presiding officer for that meeting and is authorized to sign all measures passed at the meeting.

**2.8 Roll Call.** Before proceeding with the business of the Board, the presiding officer shall call the roll of members present, and enter those named in the minutes. The chairperson shall determine the presence of a quorum as required by law and these rules.

**2.9. Control of Discussion.** The presiding officer shall control discussion of the Board on each agenda item to assure full participation in accordance with these rules.

**2.10 Order of Consideration of Agenda.** Unless modified by vote of a majority of the Board members, each agenda item shall be considered in the order set out in the public notice. Each agenda item shall be separately announced by the presiding officer prior to discussion and consideration by the Board.

**2.11 Citizen Participation.**

- A. Citizen's Right to Address Board.** Persons other than Board members shall be permitted to address the Board only upon specific agenda items.
- B. Manner of Addressing Board.** A person desiring to address the Board shall sign the "Speaker List" provided by the Board which will be available to all citizens prior to the start of the meeting. When the chairperson calls the citizen's name, the individual shall go to the podium, state his or her name, address, and group affiliation (if any), and shall confine his or her remarks to the time allotted.
- C. Time Limit on Citizen's Remarks.** Citizens shall be limited to three minutes speaking time per item unless additional time is granted by the presiding officer. Total citizen input on any subject under Board consideration shall be limited to a fixed period by the presiding officer. A majority vote of the Board may extend the time limitations of this rule.
- D. Remarks of Citizens to be Germane.** Citizen comments must be directed to the subject under consideration. The presiding officer shall rule on the germaneness of citizen comments. Citizens making personal, impertinent or slanderous remarks shall be barred by the presiding officer from further comment before the Council during the meeting.
- E. Matters Not on the Agenda.** The Board may in its discretion allow citizens who wish to raise a matter not on the agenda or who have not signed the "Speakers List" to address the Board at the end of the regular agenda.

**2.12 Motions.** Motions may be made by anyone on the Board except the presiding officer. The presiding officer shall restate the motion before a vote is taken.

**2.13 Discussion.** A Board member shall speak only after being recognized by the presiding officer. A member recognized for a specific purpose shall limit remarks to that purpose. A member, after being recognized, shall not be interrupted except by the presiding officer to enforce these rules.

**2.14 Presiding Officer's Right to Enter into Discussion.** The presiding officer may enter into any discussion.

**2.15 Limit on Remarks.** Each Board member shall limit his or her remarks to a reasonable length.

**2.16 Presiding Officer's Right to Speak Last.** The presiding officer has the right to close debate and speak last on any item.

**2.17 Closing Debate.** Discussion may be closed on any item at any time by the presiding officer with the concurrence of a majority of the Board.

**2.18 Voting.** Voting shall be by roll call and shall be recorded by yeas and nays. Every member of the Board, including the presiding officer, is required to vote on each motion. However, a member shall abstain if the member believes there is a conflict of interest, particularly if the conflict is of a financial nature. A member who elects to abstain from voting shall state the reason for the abstention at the time of voting. During the discussion of the matter under consideration, a member who plans to abstain from voting should so inform the Board so that other Board members can properly weigh the opinions given by a member who believes a conflict of interest exists.

**2.19 Board action.** Action by the board on any matter that requires a hearing shall not be taken until the hearing has been conducted.

**2.20 Parliamentary procedure.** *Roberts Rules of Order, Revised*, shall govern all Board meetings in all cases where these rules do not provide the procedures to be followed.

### **ARTICLE III Cases Before the Board**

**3.1 Application.** The Board shall hear those appeals and applications over which it is granted jurisdiction by the Dallas County Zoning, Flood Plain Management, Airport Height Zoning, Subdivision and Building Ordinances. All appeals and applications shall be initiated by the filing of an application with the Director of Planning and Development upon forms provided for that purpose by the Director.

**3.2 Information.** All information required to be set forth in the cases referred to above shall be furnished by the applicant or appellant in the manner therein prescribed on the application form.

**3.3 Review by Director.** The Director of Planning and Development shall reject any appeals or applications unless same are made on the prescribed forms, properly filled out, with all required data attached.

**3.4 Time for Appeal.** Every appeal from an order, decision or determination of the Director of Planning and Development or other County enforcement official shall be taken by the applicant to whom the order, decision or determination was directed within fifteen days from the date of such order, decision or determination. Every appeal from an order, decision or determination of the Director of Planning and Development or other County enforcement official shall be taken by any other aggrieved person within fifteen days of actual notice by such person of such order, decision or determination, which in no event shall be later than fifteen days after commencement of construction or use.

**3.5 Docketing.** Any appeal or application shall be considered as having been docketed at such time as the form for such appeal or application has been properly executed and filed by the appellant or applicant with the Board together with the payment of the associated fee in full.

**3.6 Placement on Agenda.** Every new case that has been docketed prior to the agenda closing deadline for the next Board meeting shall be placed on the agenda for hearing at that Board meeting.

**3.7 Notice of Hearing.** Notice of the time and place of Board hearing on each appeal or application shall be given by the Director of Planning and Development by regular U.S. first class mail addressed to the applicant or appellant and any designated representative at the address stated in the application and addressed to all property owners and residents within 500 feet of the boundaries of the property that is the subject of the appeal or application.

**3.8 Inspection by Director.** Upon docketing of any appeal or application, the Director of Planning and Development shall make a personal inspection of the subject premises, see that all maps and plats are prepared, and be prepared to advise the Board on the physical conditions of the property affected by such appeal or application.

**3.9 Required Additional Information.** The Director of Planning and Development may demand from the appellant or applicant such additional information as may be required to fully advise the Board with reference to the appeal or application, whether such information and data is called for by the official forms or not. Any failure or refusal on the part of the appellant or applicant to furnish some additional information or data shall be grounds for the dismissal of the appeal or application by the Board.

#### **ARTICLE IV Hearings**

**4.1 Order of Proceedings.** At the hearing on an appeal or application, the order shall be as follows:

- A.** Report and recommendations by Director of Planning and Development
- B.** Appellant's or applicant's side of the case
- C.** Interested property owners' side of the case
- D.** Comments by County staff or officials
- E.** Appellant's rebuttal

**F. Action by the Board**

**4.2 Appellant's Appearance.** The appellant or applicant may appear on his or her own behalf or may be represented by agent at said hearing. In the absence of any personal appearance on behalf of the appellant or applicant, the Board may proceed to dispose of the matter on the record before it or defer the matter until the next regularly scheduled meeting to allow an appearance.

**4.3 Official Records.** All material, written or otherwise, submitted as a part of any presentation shall become a permanent part of the record and shall not be returned. Materials presented by architects, professional engineers, attorneys and other licensed professionals may with the permission of the chairperson be returned to the licensed professional upon their agreement to retain such materials for at least sixty days and to produce such materials in the event of an appeal from the decision of the Board.

**4.4 Exparte Communications Prohibited.** Exparte communications are defined to be any written or oral communication between a Board member and another person on any subject related to an appeal or application on the Board docket and awaiting hearing before the Board. Exparte communications between Board members and their attorneys and staff and other County personnel are permitted. Exparte communications between Board members and any persons with an interest in the case are prohibited. Any Board member who has been contacted in some way by a party with an interest in the case shall disclose the nature of the communication to the Board at its hearing on the case.

**4.5 Continuance of Hearing.** The Board may continue the public hearing on any appeal or application to a future Board meeting if the Board determines that the circumstances warrant additional time to obtain additional information or testimony relevant to the issues of the case. The Board may close the public hearing on any appeal or application and continue the Board's consideration of its final disposition of the case to a future Board meeting. Such future meeting shall be open to the public; however, the Board may determine not to reopen the public hearing and to limit the discussion solely to Board members for the purpose of reaching a determination of the final disposition of the case.

**ARTICLE V**  
**Disposition of Appeal or Application**

**5.1 Decision.** The final disposition of any appeal or application shall be in the form of a written Decision, which shall be filed in the office of the Director of Planning and Development. In the case of an appeal, the final Decision shall affirm, modify or reverse the refusal of a permit by, or any order or decision of the Director of Planning and Development or other County enforcement official. In the case of an application for variance, special permit or conditional use permit, the final Decision shall set forth that the application is denied or that it is granted with or without conditions, and the Decision shall specifically set forth what uses are permitted and what conditions, if any, shall be complied with. All final Decisions shall include

findings of fact in support of the action taken by the Board.

**5.2 Withdrawal of Appeal or Application.** Any appellant or applicant may withdraw his or her appeal or application at any time prior to the decision by the Board of Adjustment.

## **ARTICLE VI New Appeal or Application**

**6.1 Change in Facts and Circumstances.** No rehearing or reconsideration of any decision by the Board of Adjustment shall be held. However, an aggrieved appellant or applicant may file a new appeal or application seeking similar relief with respect to a subject property. The Board shall not consider any such new appeal or application for a period of one year after the filing of the prior Board decision. Such a new appeal or application shall be permitted by the Board only in cases where the facts and circumstances present at the time of the Board's prior decision have so changed as to materially affect the reasons which produced and supported it. If the Board determines that there has not been a material change in circumstances, then the Board shall act to deny the new appeal or application without further consideration.

**6.2 Examples.** A change in the facts and circumstances present at the time of the Board's prior decision may be such as:

- A. Where the appellant or applicant proves the consent of owners who previously objected to the relief sought at the earlier hearing.
- B. Where the appellant or applicant proves that land adjacent to the subject property is no longer subject to restrictive covenants where were in effect at the time of the earlier hearing.
- C. Where the appellant or applicant presents a new plan that involves substantially greater limitations on the use of the property.
- D. Where the appellant or applicant presents evidence showing that the vicinity of the subject property has undergone a material and substantial change since the earlier decision was rendered.

**6.3 Board Determination.** When presented with such a new appeal or application, the Board shall first determine whether there has been a change in circumstances since the prior Board decision. If the Board determines circumstances have changed, then it shall make the additional determination whether the change in circumstances is so material as to affect the reasons underlying the prior Board decision.

## **ARTICLE VII Expenses**

**7.1 Expenses and Mileage.** Board members may receive payment for actual expenses and mileage incurred only upon approval of the Board. Mileage shall be paid at the rate allowed by the Board of Supervisors.

**7.2 Gratuity.** A gratuity may be paid on a per meeting basis as approved by the Board of Supervisors.

**7.3 Gifts.** Board members may not receive any type of gift for their personal use or enjoyment.

## **ARTICLE VIII Meeting Attendance**

**8.1 Attendance Requirements.** Board members are expected to attend all regular and special meetings of the Board. If a member has a valid reason for nonattendance, the member shall notify the Director of Planning and Development before the meeting. A Board member will be asked to resign if at any time the member has three consecutive unexcused absences from regular, special or subcommittee meetings, or if total absences (whether excused or not) exceed forty percent (40%) of the total meetings in a calendar year. A review of attendance shall be made at the end of each year.

## **ARTICLE IX Committees**

**9.1 Creation by Resolution.** The Board by resolution may create standing and special committees for certain purposes as determined by the Board.

**9.2 Appointment and Tenure.** The chairperson shall appoint three or more members to each committee. The committee shall decide when and where to meet, and announce these intentions to the Board. Members of the committee shall serve for one year and until their successors are appointed, or in the case of special committees until their work is completed. Vacancies shall be filled by the board chairperson.

**9.3 Spokesperson Position Created.** Every committee shall choose a spokesperson who will assume the following duties: present the findings and recommendations of the committee to the whole Board; ensure that the committee meeting is open to the public and the public has been notified of each meeting; guide the committee meeting; and insure that proper minutes have been kept.



**ARTICLE X**  
**Amendments**

**10.1 Procedures to Amend.** A majority vote of the Board of Adjustment shall be necessary to amend these rules. Such proposed amendments shall be presented in writing at any regular or special meeting of the Board.

Adopted by the Dallas County Board of Adjustment on 2-11-2002.

Chairperson Richard D. Ellerman

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